

REMARKS

A. Status of the Claims

Claims 1-11, 31-41 and 64-69 were examined. Claim 64 has been amended. No claims have been canceled. Thus, claims 1-11, 31-41 and 64-69 will be pending upon entry of the amendments.

B. The Pending Claims Are Novel

1. Claims 1 and 31

Independent claims 1 and 31 are directed to medical devices, not methods of performing surgery, and both **positively recite** not only a needle backloaded into the claimed first needle guide channel, but the needle being connected to a suture that itself is **threaded** through the claimed lumen of the claimed body. Whitin (USPN 6,190,396) does not **disclose or suggest** a suture positioned as positively recited in either claim.

The Office takes the position that this limitation is met merely if one **could** position a suture as claimed. Anticipation does not reach that far, and the Examiner and his Supervisor are urged to consult with a Special Program Examiner from Group 3700 about this before issuing the same rejection.

Moreover, there is no reason to position the sutures disclosed in Whitin as claimed. Doing so would likely only impede or complicate the normal operation of Whitin's trigger driven device. For these reasons, independent claims 1 and 31, and their dependent claims, are patentable over Whitin.

2. Claim 64

Independent claim 64 has been amended to recite that the claimed lumen is substantially centered within the body, in order to distinguish Whitin (and for no other reason). Whitin does

not disclose or suggest a centered passageway within shaft structure 20. For this reason, independent claim 64 and its dependent claims are patentable over Whitin.

C. Petition for Extension of Time in This and Future Responses

Pursuant to 37 C.F.R. § 1.136(a), Applicants petition for a 3-month extension of time in which to respond to the outstanding Office Action. The Office is authorized to deduct the small-entity process fee for the 3-month extension of time and any additional fees required for any reason from to Fulbright & Jaworski Deposit Account No.: 50-1212/AFEI:002US.

The Office is further authorized to treat any concurrent or future reply that requires a petition for an extension of time under 37 C.F.R. § 1.136(a) to be timely as incorporating a petition for an extension of time for the appropriate length of time, and to deduct all required fees under 37 C.F.R. §§ 1.16 to 1.21 relating to any such replies of other relevant papers from Fulbright & Jaworski Deposit Account No.: 50-1212/AFEI:002US.

D. Conclusion

Applicant respectfully submit that claims 1-11, 31-41 and 64-69 are in condition for allowance. The Office is invited to contact the undersigned attorney at (512) 536-3031 with any questions.

Respectfully submitted,



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